

AMENDED IN SENATE AUGUST 1, 2007

AMENDED IN SENATE JUNE 19, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 17, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 739

Introduced by Assembly Member Laird
(Coauthors: Assembly Members Huffman, *Jones*, and Levine)

February 22, 2007

An act to add Sections 5096.827.2, 5096.827.3, 75050.2, and 75050.4 to the Public Resources Code, and to add Sections 13383.7 and 13383.8 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 739, as amended, Laird. Stormwater discharge.

(1) Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater in accordance with the national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act (state act).

The Safe Drinking Water, Water Quality and Supply, Flood Control, River, and Coastal Protection Bond Act of 2006 (initiative bond act) authorizes the issuance of bonds in the amount of \$5,388,000,000. The Disaster Preparedness and Flood Prevention Bond Act of 2006 authorizes the issuance of bonds in the amount of \$4,090,000,000 for

the purposes of financing a disaster preparedness and flood prevention program.

This bill would require the Department of Water Resources to develop project selection and evaluation guidelines to implement a specified stormwater flood management grant program financed by the Disaster Preparedness and Flood Prevention Bond Act of 2006. The bill would provide that the design and construction of projects for specified combined municipal sewer and stormwater systems are eligible for financing under that grant program. The bill would require the state board to develop project selection and evaluation guidelines for the allocation of funds made available by the initiative bond act for a stormwater contamination prevention and reduction program. The bill would provide for the expenditure of those funds, upon appropriation, for specified projects. The bill would require the state board to coordinate with the department with regard to the development of project selection and evaluation guidelines for various programs involving stormwater management that are financed by the initiative bond act or the Disaster Preparedness and Flood Prevention Bond Act of 2006. The state board would be required, *no later than July 1, 2009*, to develop a comprehensive framework for evaluating and measuring the effectiveness of municipal stormwater management programs undertaken, and permits issued, in accordance with the NPDES permit program and the state act. *The state board and the regional boards would be required to establish requirements in municipal stormwater programs and permits for evaluation and reporting on program effectiveness.* By establishing requirements on municipal storm-water dischargers, the bill would impose a state-mandated local program. The bill would require the state board to appoint a stormwater management task force comprised of public agencies and nonprofit organizations, and to submit a specified ~~stormwater management program~~ report *on polluted runoff control* to the Ocean Protection Council no later than January 1, 2009, and annually thereafter.

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

(2) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The federal Clean Water Act requires the regulation of
4 stormwater discharges under the national pollutant discharge
5 elimination system (NPDES) permit program. The State Water
6 Resources Control Board and the California regional water quality
7 control boards have been designated by the United States
8 Environmental Protection Agency to implement the NPDES
9 stormwater program.

10 ~~(b) The Clean Water Act requires permits for discharges from~~
11 ~~municipal storm sewers to include requirements to effectively~~
12 ~~prohibit nonstormwater discharges into the storm sewers and to~~
13 ~~require controls to reduce the discharge of stormwater pollutants~~
14 ~~from municipal storm sewers to the maximum extent practicable,~~
15 ~~including by means of management practices, control techniques~~
16 ~~and systems, design and engineering methods, and other provisions~~
17 ~~as the federal or state regulators determine to be appropriate for~~
18 ~~the control of pollutants.~~

19 ~~(c) Stormwater discharges are~~

20 *(b) Polluted runoff, including stormwater discharges, is*
21 *generated by runoff from land and impervious areas such as paved*
22 *streets, parking lots, and building rooftops during both dry and*
23 *wet months. Stormwater discharges often contain pollutants in*
24 *quantities that could adversely affect water quality. Stormwater*
25 *discharges can also accelerate stream erosion, causing increased*
26 *sedimentation downstream, loss of flood conveyance capacity, and*
27 *increased flood damage risk.*

28 ~~(d) The State Water Resources Control Board has found that~~
29 ~~urban runoff is a leading cause of pollution throughout California.~~

1 (c) *The State Water Resources Control Board and the California*
2 *regional water quality control boards, in their 2001 strategic plan,*
3 *indicate that polluted runoff is the leading cause of water quality*
4 *problems in the state. The United States Environmental Protection*
5 *Agency considers urban stormwater pollution a serious source of*
6 *pollution in the waters of the United States.*

7 ~~(e) The State Water Resources Control Board has determined~~
8 ~~that the use of low-impact development is a proven approach in~~
9 ~~certain parts of the country and is viewed in California as an~~
10 ~~alternative to conventional stormwater management. Effective~~
11 ~~stormwater management practices, including low-impact~~
12 ~~development and the use of “green” techniques, that incorporate~~
13 ~~features such as permeable surfaces and retention of the natural~~
14 ~~hydrologic character of a development site should be promoted.~~

15 (d) *The State Water Resources Control Board’s Resolution No.*
16 *2000-0006, dated January 2005, which adopted sustainability as*
17 *a core value for all activities and programs, supports sustainable*
18 *practices related to water quality and water supply, including, but*
19 *not limited to, low-impact development that seeks to maintain*
20 *predevelopment runoff rates and volumes. Low-impact development*
21 *includes specific techniques such as reducing the amount of*
22 *impermeable surfaces and increasing infiltration.*

23 ~~(f)~~
24 (e) *The State Water Resources Control Board and the*
25 *Department of Water Resources shall coordinate water quality,*
26 ~~integrated regional water management, and flood control financial~~
27 ~~should coordinate applicable financial~~ *assistance programs to*
28 *maximize public benefits and leverage local and federal funding.*

29 ~~(g)~~
30 (f) *The State Water Resources Control Board should provide*
31 *state oversight regarding stormwater management the NPDES*
32 *stormwater program, including guidance, priorities, policy*
33 *direction, technical assistance, and evaluation of program*
34 *effectiveness.*

35 SEC. 2. Section 5096.827.2 is added to the Public Resources
36 Code, to read:

37 5096.827.2. (a) ~~The department, in consultation with the State~~
38 ~~Water Resources Control Board,~~ *shall develop project selection*
39 *and evaluation guidelines to implement Section 5096.827. The*
40 *State Water Resources Control Board shall advise the department*

1 on the ~~stormwater~~ and water quality portions of the guidelines,
2 relying as appropriate on the stormwater guidelines developed by
3 the State Water Resources Control Board pursuant to Section
4 75050.2.

5 (b) The guidelines shall include a provision that gives preference
6 to a project that reduces flood damages for which one or ~~more~~ *both*
7 of the following applies:

8 (1) The project is not receiving state funding for flood control
9 or flood prevention projects pursuant to Section 5096.824 or
10 Section 75034.

11 ~~(2) The project manages and reduces the water quality impacts~~
12 ~~of stormwater runoff to streams, lakes, bays, and coastal waters.~~

13 ~~(3) The project provides multiple benefits.~~

14 *(2) The project provides multiple benefits, including, but not*
15 *limited to, water quality improvements, ecosystem benefits,*
16 *reduction of instream erosion and sedimentation, and groundwater*
17 *recharge.*

18 SEC. 3. Section 5096.827.3 is added to the Public Resources
19 Code, to read:

20 5096.827.3. Consistent with the requirements of ~~Section~~
21 ~~5096.827~~ *Sections 5096.827 and 5096.827.2*, the design and
22 construction of projects for combined municipal sewer and
23 stormwater systems that do ~~both~~ *either* of the following are eligible
24 for financing under Section 5096.827:

25 (a) Address water quality improvements ~~and~~ *or* climate
26 change-induced surface water rise, particularly in low-lying and
27 low-income areas, *or both*.

28 (b) Enhance the capacity of the collection systems by providing
29 stormwater treatment ~~and~~ *or* preventing surface water backflow
30 into the combined municipal sewer and stormwater systems, *or*
31 *both*.

32 SEC. 4. Section 75050.2 is added to the Public Resources Code,
33 to read:

34 75050.2. (a) The state board shall develop project selection
35 and evaluation guidelines for the allocation of funds made available
36 pursuant to subdivision (m) of Section 75050. Upon appropriation,
37 the funds shall be available for matching grants to local public
38 agencies, *not to exceed five million dollars (\$5,000,000) per*
39 *project*, for projects to achieve any of the following purposes in
40 accordance with the requirements of that subdivision:

(1) Complying with total maximum daily load requirements established pursuant to Section 303(d) of the Clean Water Act (33 U.S.C. Sec. 1313(d)) and this division where pollutant loads have been allocated to stormwater, including, but not limited to, metals, pathogens, and trash pollutants.

~~(2) Providing incentives to implement low-impact development and other onsite practices, on public and private lands, that maximize redevelopment hydrology for new development and~~

(2) Assistance in implementing low-impact development and other onsite and regional practices, on public and private lands, that seek to maintain predevelopment hydrology for existing and new development and redevelopment projects. Projects funded pursuant to this paragraph shall be designed to infiltrate, filter, store, evaporate, or retain runoff in close proximity to the source of water.

(3) Implementing treatment and source control practices to meet design and performance standard requirements for new development.

(4) Treating and recycling stormwater discharge.

(5) Improving the ability of combined municipal sewer and stormwater systems to address water quality improvements ~~and~~ or climate change-induced surface water rise, particularly in low-lying and low-income areas, *or both*, and enhancing the capacity of the collection systems by providing stormwater treatment ~~and~~ or preventing surface water backflow into the combined municipal sewer and stormwater systems, *or both*.

(6) Implementing best management practices, and other measures, required by municipal stormwater permits issued by a California regional water quality control board *or the state board*.

(7) Assessing project effectiveness, including, but not limited to, monitoring receiving water quality, determining pollutant load reductions, and assessing improvements in stormwater discharge water quality.

(b) (1) For the purpose of implementing subdivision (a), the state board shall give preference to a project that does one or more of the following:

(A) Supports sustained, long-term water quality improvements.

(B) Is *coordinated or* consistent with any applicable integrated regional water management plan.

(2) The allocation of funds pursuant to this section shall be consistent with water quality control plans and Section 75072.

SEC. 5. Section 75050.4 is added to the Public Resources Code, to read:

75050.4. The state board shall coordinate with the department with regard to the development of project selection and evaluation guidelines for the following financial assistance programs that are directed in whole or part for municipal stormwater management, to avoid duplication and maximize water quality benefits:

(a) Section 5096.827.

(b) Subdivision (a) of Section 75026.

(c) Subdivision (m) of Section 75050.

(d) Subdivision (a) of Section 75060.

SEC. 6. Section 13383.7 is added to the Water Code, to read:

13383.7. (a) No later than July 1, 2009, the state board shall develop a comprehensive framework for evaluating and measuring the effectiveness of municipal stormwater management programs undertaken, and permits issued, in accordance with Section 402(p) of the Clean Water Act (33 U.S.C. Sec. 1342(p)) and this division.

(b) For the purpose of implementing subdivision (a), the state board shall promote the use of quantifiable measures for evaluating the effectiveness of municipal stormwater management programs and provide for the evaluation of, at a minimum, all of the following:

(1) Compliance with stormwater permitting requirements, including all of the following:

(A) Inspection programs.

(B) Construction controls.

(C) Elimination of unlawful discharges.

(D) Public education programs.

(E) Adoption and enforcement of requirements for new development and redevelopment, including design standards, treatment and source controls, and low impact development practices.

(2) Reduction of pollutant loads from pollution sources.

(3) Reduction of pollutants—~~in~~ *or stream erosion due to* stormwater discharge.

(4) Improvements in the quality of receiving water in accordance with water quality standards.

1 (c) Consistent with the framework adopted by the state board
2 *and with federal law*, the state board and the regional boards shall
3 establish requirements in municipal stormwater programs and
4 permits for evaluating and reporting on program effectiveness.

5 SEC. 7. Section 13383.8 is added to the Water Code, to read:

6 13383.8. (a) The state board shall appoint a stormwater
7 management task force comprised of public agencies and nonprofit
8 organizations with expertise in water quality and stormwater
9 management. The task force shall provide advice to the state board
10 on its stormwater management program that may include, but is
11 not limited to, program priorities, funding criteria, project selection,
12 and interagency coordination of state programs that address
13 stormwater management.

14 (b) The state board shall submit a ~~stormwater management~~
15 ~~program report~~ *report, including, but not limited to, stormwater*
16 *and other polluted runoff control information*, to the Ocean
17 Protection Council no later than January 1, 2009, and annually
18 thereafter, on the way in which the state board is implementing
19 the priority goals and objectives of the council's strategic plan.

20 ~~SEC. 8. If the Commission on State Mandates determines that~~
21 ~~this act contains costs mandated by the state, reimbursement to~~
22 ~~local agencies and school districts for those costs shall be made~~
23 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
24 ~~4 of Title 2 of the Government Code.~~

25 SEC. 8. *No reimbursement is required by this act pursuant to*
26 *Section 6 of Article XIII B of the California Constitution because*
27 *this act implements a federal law or regulation and results only*
28 *in costs mandated by the federal government, within the meaning*
29 *of Section 17556 of the Government Code.*